

CITY OF COTATI
MINUTES for the Regular Meeting of the Planning Commission

DATE OF MEETING: July 21, 2008
TIME OF MEETING: 7:00 p.m.
PLACE OF MEETING: Cotati City Hall, City Council Chambers
201 West Sierra Avenue, Cotati, CA 94931

I. CALL TO ORDER

Chair Rock called the meeting to order at 7:00 p.m.

II. ROLL CALL

Commissioners Present: Hardy, Kurvers, Pagnusat, Rock, and Coleman-Senghor
Commissioners Absent: None
Staff Present: Kavanaugh-Lynch, Lustig, Harris, Pajon
City Attorney Pianca

III. APPROVAL OF MINUTES

A. For the Regular Meeting on May 5, 2008

Commissioner Hardy had a correction to the minutes on page 5, 8th paragraph, strike the word *applicant*.

It was moved by Commissioner Pagnusat to approve the minutes of May 5, 2008, with the above noted correction. Seconded by Commissioner Hardy.

Yes: 5 Noes: 0 Abstain: 0 Absent: 0

IV. CHANGES TO THE AGENDA

Acting Planning Manager Kavanaugh-Lynch continued Item C, Request for Variance and Design Review approval for a ten foot high fence to be installed along the rear property boundary of Lots 4-7 of the Altman Acre Subdivision until September 2, 2008, Planning Commission Meeting.

V. ORAL AND WRITTEN COMMUNICATIONS

There were no oral or written communications.

The PUBLIC HEARING was opened for comment at 7:05 p.m.

The PUBLIC HEARING was closed without comment.

VI. MATTERS AT HAND

- A. Public Hearing to Consider Recommending to the City Council the Adoption of an Ordinance to Regulate the Conversion of Mobile Home Parks to Other Uses, and an Ordinance to Regulate the Subdivision of Mobile Home Parks.

Assistant to the City Manager Lustig presented the staff report for Item A. The two Mobile Home Ordinances were presented to the Planning Commission. Each ordinance was described in detail including the history behind each ordinance. A moratorium had previously been adopted by the City Council which highlighted their concern over this issue. Other cities have adopted ordinances similar to this because of these important concerns. Assistant to the City Manager Lustig pointed out that the Attachment 7 language was not included in the subdivision ordinance due to pending litigation in other jurisdictions. She stated that without these ordinances the mobile home park residents were at risk and valuable affordable housing could be lost. Staff is recommending the Approval of Resolutions PC 08-12 and PC 08-13. She also recommended that one line be changed in section 17.46.110D.

Commissioner Coleman-Senghor said that he has concerns with the ordinances and would like to know exactly what would not be protected. He described in more detail his concerns with not keeping the language in the ordinance and asked what the timing of current litigation might be.

City Attorney Pianca responded to Commissioner Coleman-Senghor regarding the litigation on this item and said that it is currently in appeal and it is unknown when that appeal will be resolved.

Commissioner Coleman-Senghor said that he is trying to understand the dangers to the City in respect to litigation, which would allow this language in when other cities are already involved with it. He asked about the timeline and when it would need to go before Council.

Assistant to the City Manager Lustig said that it was unlikely to be resolved through the courts before winter.

Commissioner Coleman-Senghor stated that this would mean that Cotati wouldn't have to face this issue until after winter and that the issue should be able to be resolved without going to litigation.

Commissioner Pagnusat asked for clarification on the changes with the ordinances that are being introduced.

Assistant to the City Manager Lustig provided a brief summary of the two ordinances.

Commissioner Pagnusat asked if the Community Impact Report (CIR) was like an Environmental Impact Report (EIR).

Assistant to the City Manager Lustig said that there were similarities, but the Community Impact Report (CIR) was more about financial impacts which are not considered with an EIR. These impacts can be mitigated so that residents can have the resources to move to another home.

Commissioner Pagnusat asked who would make that decision.

Assistant to the City Manager Lustig stated that the mobile home park owners would have to hire a specialist to do a housing evaluation and the City determines if that analysis was adequate.

Commissioner Pagnusat confirmed that what was being done tonight was either accepting or not accepting the two ordinances.

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Commissioner Hardy asked Assistant to the City Manager Lustig that if the additional language (Attachment 7) was added by the Planning Commission, could the City Council elect to approve it without the language.

Assistant to the City Manager Lustig responded that the Council could accept it or they could take it out.

Commissioner Hardy asked if the ordinance went through with Attachment 7 and City Council passes it and it is challenged, she asked if the rest of the protections would hold up once the moratorium is up.

Assistant to the City Manager Lustig replied that the rest of the ordinance could be enforced even if the language is challenged.

Commissioner Coleman-Senghor said that he has concerns about the language in the ordinance and asked what guidelines would be used to describe displacement.

Assistant to the City Manager Lustig said that it would all be considered in the conversion impact report and it would be analyzed by a housing specialist based on what is in our ordinance.

Commissioner Coleman-Senghor said that he has looked at other cities and the various examples and that "displacement" varies between cities. He said that mileage should be included.

Assistant City Manger Lustig stated that mileage was included in the ordinance and was determined to be 50 miles.

Commissioner Coleman-Senghor asked if staff had reviewed the cost if they were to go south.

Assistant to the City Manager Lustig said that there were many factors that were considered when coming up with this criteria.

Commissioner Coleman-Senghor asked if mileage was calculated from the radius or the gross determining factor. He also inquired about who would determine if the affected person was asking too much.

Assistant to the City Manager Lustig stated that the City Council has the final determination.

Commissioner Coleman-Senghor asked why the language on page 5 was there, how was it going to be used, and what counts as a bona-fide conversion.

Assistant to the City Manager Lustig responded to Commissioner Coleman-Senghor with clarification of the language that was defined as bona-fide.

OPEN PUBLIC HEARING opened at 7:40 p.m.

Chris Cone a resident and also the President of the Sierra Mobile Home Park Association spoke about the history of the park and that the reason for the park was to allow affordable housing. She discussed the two types of resident owned parks and that it was low to moderate income people that reside at these parks. She stated that the residents feel that the ordinances as written do not adequately protect their interest. She explained that the Attachment 7 criteria for what constitutes a bona-fide resident survey is in accordance with AB930 and that this language is very important to them. She explained that without Attachment 7, mobile home owners would have no say in a decision that would directly affect them and there would be no clear means to interpret or ensure bona-fide survey results per AB930. This is a decision that directly affects their financial future. She expressed understanding to the City's financial budget challenges and the risk of a lawsuit, but respectfully request the language

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which is presented in Attachment 7 be added. She said that although the language is in appeal right now, if it were to be adopted and the appeal prevail, Cotati would still have the option to remove the language to lower the risk of a lawsuit. She strongly urges the Planning Commission to include the Attachment 7 language on bona-fide resident criteria because it is the only way to have a legitimate voice in any park conversion. She also discussed Section 17.46.160, Occupancy of Park Below Twenty Percent or Other Evidence of Park Closure. She requested this section be removed from the ordinance because it is unclear if this section provides another means for park closures. She would like to replace it with the section that the Sonoma County Ordinance has. She said that it has been on the books for 15 years and has provided adequate protection for the mobile home parks. She expressed a desire to have more time to study the current section 17.46.160 before deciding if they could support it. She strongly urged the Planning Commission to add the section with the Sonoma County text from 26.92.090. If the Planning Commission deemed that they need more time to review the ordinance they would support the idea.

Dee Egbert of Sierra Creek Mobile Home Park expressed his concerns about the possibility of having to move his mobile home and he would like to understand this issue and find out how much danger he is in.

Robert Fleak, a representative of Golden State Manufactured-Home Owner League, which represents 500 parks in California, said that these conversions amount to economical eviction. He said that there are no available places to move their homes and they will end up on the street. He recommended looking at Rohnert Park or Sonoma's ordinance, which have already been tested in court.

Len Carlson, resident of Rancho Grande in Rohnert Park, also President of Sonoma County Mobile Home Association said that he agrees with Robert and his comments. He said that the intent of the law at the time it was written was 51% of the residents could approve any type of conversion or condoization and that language was taken out. He is concerned about the changes of any ordinance. He stated that to move a mobile home was not possible and there were no places to move. He stated that the residents that live there must be protected.

Marion Koglin of Sierra Mobile Home Park said that she agrees with Chris Cone's comments. She said that if the park is converted into condos she will not be able to stay and will become a displaced resident.

Brenda Woods of Countryside Mobile Home Park spoke about the money she scraped together 6 years ago to buy a mobile home realizing that when she soon retired it would be the only thing she could afford. She said that she will have to report to her neighbors tonight and would like to understand the details of what these ordinances are about. She understands that the moratorium is due to expire in October and it appears that the ordinances will now allow the conversion but with protections for the residents, possibly allowing them an opportunity to vote with a certain percentages for approval. She explained that her park was just sold a couple days ago, and the person who purchased it owned at least two of the homes in the park. She has heard that the owners intend to buy the mobile homes up. She feels that it won't take too long to have their percentage. She is very concerned and feels that maybe she should sell her mobile home.

Wayne Randall of Countryside Mobile Home Park request that the Planning Commission implement the strongest language possible into the ordinances. He said that the residents need to be protected.

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Joshua Gross, a mobile home park resident spoke about his history in the community and recommends that the strongest language possible be put in the ordinances to help this group.

Joanne Rostco of Sierra Mobile Home Park spoke about her experience with the Neptune Society as a funeral counselor and being involved with all of the surrounding mobile home parks. She chose mobile home park living for the sense of community and heart. She said that mobile home living is not just about affordable housing.

Karen Sharp, the daughter of a homeowner from Sierra Mobile Home Park has concerns about the residents of these parks and where they would go. She said that the owners of the park are still making a profit and she wonders what these residents are going to do if they have no place to live.

Craig Lindstrum, a mobile home park resident explained his personal situation and how he ended up purchasing a mobile home. He explained that this opportunity had allowed him to provide for his family. He asked for the protection needed to allow the residents to keep their homes.

Mary Maher said that she does not live in a mobile home but is a citizen of Cotati and is concerned about what is happening. She would like to appeal to the Planning Commission's humanity. She would like them to remember that the lives of these people are deeply involved.

Concetta DeLuca has been a resident of Sierra Mobile Home Park for 24 years and agrees with everything that Chris Cone has said and asks for the protection that is needed.

Peggy Finley is a resident of Sierra Mobile Home Park and agrees with Chris Cone and said that she is speaking for the residents of the park. Peggy described her personal situation including security and finances. She request protection so that they do not have to move.

Pamela Born who lives at Sierra Mobile Home Park said that she also agrees with Chris Cone and everyone else that has spoken. She said that she feels that they are being harassed and they are always in fear of what is going to happen next. She is for non-profit resident owned parks. She understands that if the park is converted to condos that she will have to pay \$100,000 for the air, not even the property.

Alfred Burges who lives in Sierra Mobile Home Park said that he moved there 16 years ago and retired 10 years ago. He can't afford to live anywhere else. He said that he agrees with Chris Cone and he doesn't want to move out of Cotati.

Ida Luke, a resident of Ramble Creek Mobile Home Park and also a business owner in Cotati is concerned about the improvements that aren't done to the parks. She asked if there were any provision in the ordinance that would make them complete the improvements. She is concerned about the repercussions that might happen to her for speaking out on this issue.

Ingal Kaval, aka Brick Kaval agrees with Chris Cone and thanked her for her comments. She expressed the importance of community that these parks provide.

Frances Cook of Sierra Mobile Home Park agrees with Chris Cone's comments and has concerns about not having a place to live and not being able to afford a new place.

Teresa Mendoza of Sierra Mobile Home Park agrees with Chris Cone and asks the Planning Commission for their help.

Doreen Strand agrees with Chris Cone and everything she had to say. She explained that she is partially disabled and has two children. She is scared to death that she will not have a place to live.

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She put everything she had into the mobile home she is in and can't afford to move or afford the cost if the conversion were to happen.

Lillian Pane-Vaughn of Countryside Mobile Home Park would like the Planning Commission to keep in mind the improvements that she has made on her property, including 5 trees, while the owners haven't kept up with the park. She explained that the people from Countryside Mobile Home Park are not attending this meeting because they are afraid of the owners and they have been treated horribly by them. She asked the Planning Commission what they would do with these people if they convert the land because they will all be homeless. There aren't enough shelters for all of the people that would lose their homes. She would like the Planning Commission to take this under consideration.

Darby Gross who lives with his father in the mobile home park expressed his concern over this issue and the chance that they might not have a place to live.

Ron....(name not audible) wanted to remind the Planning Commission that these residents come from divorce, financial disaster and many are elderly. He explained the extensive cost for the state to house elderly if that were to happen. The lives of these people are in the Planning Commission's hands and this should be considered. He stated that there are some really good people and their homes shouldn't be taken away from them.

Bruce Randall explained his personal situation and the purchase of a mobile home just last month. He is currently retired and had to walk away from his home. He was able to purchase the mobile home and is concerned that if the residents cannot afford the conversion they will be on the street.

PUBLIC COMMENT closed at 8:32 p.m.

RECESS

RECONVENED AT 8:45 p.m.

Chair Rock asked Assistant to the City Manager Lustig to respond to the questions that have been brought up by the public regarding these ordinances.

Assistant to the City Manager Lustig summarized the ordinances and stated that these ordinances can help but state law will not prevent the sale of these properties.

Chair Rock agreed with Assistant to the City Manager Lustig's comments and said that they cannot pass an ordinance that says they cannot convert. They can pass an ordinance that can provide protection if and when a conversion happens.

Commissioner Coleman-Senghor said that he understands that they cannot prevent the sale of private property.

Assistant to the City Manager Lustig stated that the ordinance allows for the mitigation of the impacts of the conversion.

Commissioner Coleman-Senghor stated that the question of land use was raised and that the City, as he understands it, made a determination of the land use and that the City approved that use of land.

Assistant to the City Manager Lustig stated that a request would have to be made for a change of the land use.

Commissioner Coleman-Senghor said that it would be in fact a very interesting and technical way of providing additional protection from what is in fact a belief by the park owner that they can do

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anything with that property, he then asked if we could place additional language in our ordinance or at least highlight it in the conversion.

Assistant to the City Manager Lustig responded to Commissioner Coleman-Senghor that because it says in the ordinance that they must comply with all regulations including the Land Use Ordinance and the General Plan it is already mentioned.

Commissioner Coleman-Senghor thanked Assistant to the City Manager Lustig.

Assistant to the City Manager Lustig said that she wanted to clear up some possible confusion regarding section 17.46.160 in Ordinance 08-12, which is the Occupancy of Park Below 20% or Other Evidence of Park Closure. She explained how that section was intended and why there is some confusion. The section that Chris gave to the Planning Commission is related to mobile home park conversion, but it is related to the county findings for a change of use and is in the report already. Assistant to the City Manager Lustig advised that staff would be available to spend more time explaining how this section works and why it is a benefit to the residents between the Planning Commission and the time it will be taken to Council. She explained that the purpose was to ensure that if there was a closure happening one unit at a time that residents were protected.

Commissioner Coleman-Senghor asked if this is in response to the question about an owner buying up one unit at a time and asked if it occurred with the vacancy of the units or with the number of the people living in the park.

In response to Commissioner Coleman-Senghor, Assistant to the City Manager Lustig said that there is only one vote per unit.

Commissioner Coleman-Senghor asked if that was how our ordinance reads because he didn't read it that way and stated that the owner could come in and buy the mobile homes and claim a stock share in it.

Assistant to the City Manager Lustig explained that before it got to the 20% of ownership by the park owner it would be deemed a conversion and that is when the protections would kick in.

Commissioner Coleman-Senghor inquired about having stronger language in the ordinance.

City Attorney Pianca clarified that portion of the ordinance that addressed occupancy for the park below 20%. She also confirmed that it is one vote per mobile home site.

Commissioner Coleman-Senghor asked if that is how the state interprets it.

City Attorney Pianca responded that the language of the state says, each occupied mobile home space has one vote.

Commissioner Coleman-Senghor said that this was how he read it, that there has to be a body there. He stated that he wanted to make sure that it was clear that they are looking at occupancy and not just a mobile home.

Chair Rock asked City Attorney Pianca where in the ordinance it says this.

City Attorney Pianca responded to Chair Rock with section 17.79.060, page 13 thru page 14.

Assistant to the City Manager Lustig stated that a conversion impact report would have to disclose what offers have been made to residents.

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Commissioner Hardy said that it says each occupied mobile home space. He asked if a trailer is there would that be considered occupied or does someone have to be living in it.

City Attorney Pianca said that it is her understanding that occupied is defined as someone living in that space.

Commissioner Coleman-Senghor asked about changing the language so that it says "each resident."

City Attorney Pianca said that the language in Subsection C 060 reflects and parallels that of state law, which provides that there shall be one vote for each occupied mobile home space.

Assistant to the City Manager Lustig responded to an earlier question from a park resident that asked about improvements that were done by the tenants.

Commissioner Hardy asked if the cost of the upgrade would be carried by the person who is doing the subdividing.

Assistant to the City Manager Lustig responded that it could be passed through.

Commissioner Coleman-Senghor stated that would mean the residents would have to live in substandard conditions.

Assistant to the City Manager Lustig said that it is consistent with any subdivision process, until it is a health and safety issue.

Assistant to the City Manager Lustig explained to the Planning Commission that these ordinances can protect affordable housing and compensate displaced residents but they will not prevent a sale.

Chair Rock asked about the modular home vs. a mobile home and if there something that states that a modular home will be compensated.

City Attorney Pianca responded to Chair Rock that a modular home is defined as a mobile home.

Commissioner Kurvers stated that the park owners were in attendance and chose not to speak.

Commissioner Coleman-Senghor inquired about the deadline and said that he would like to explore the possibility of continuing this item for more research.

Assistant to the City Manager Lustig said that they would like to adopt these ordinances because of the critical timeline and they would be glad to hold a workshop after adoption to readdress these issues if that is requested.

Commissioner Coleman-Senghor discussed the timeline and would like more time to look at these issues, he wants the strongest document and doesn't want the City exposed.

Assistant to the City Manager Lustig stated that after listening to the comments from park residents she feels that they are in support of the ordinances, but would like to have Attachment 7 added.

Commissioner Kurvers said that he feels that the timeline is too tight to wait.

Chair Rock asked what would happen if they missed the timeline.

City Attorney Pianca said that the moratorium will expire and there would be no provisions in the Land Use Code to afford those protections.

Assistant to the City Manager Lustig said that the City Council enacted the moratorium because of the threat of conversion and the need for protection for the residents.

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Commissioner Coleman-Senghor stated that if we are being cautious because of the litigation he feels there are protections from state law.

City Attorney Pianca stated that state law only provides the bones and the local ordinances fill that in. The state law is a minimum and the local law adds to that.

Chair Rock said that the ordinances that we have in front of us add more protections.

City Attorney Pianca agreed with Chair Rock and stated that setting forth the standards of state law requirements and then adjusting them to reflect what the local needs and desires are.

Commissioner Pagnusat asked Commissioner Coleman-Senghor why he thinks that he needs more time to address this issue.

Commissioner Coleman-Senghor responded that this was a complex issue and feels that they should have the most protective and strongest ordinances for the citizens as well as the City.

Commissioner Pagnusat said that we should remember that the job of the Planning Commission is to oversee this and not to write it.

Commissioner Coleman-Senghor stated that they should have clarity in the language and he doesn't feel that they are there yet.

Commissioner Pagnusat stated that he felt differently.

Commissioner Hardy said that she agrees with Commission Coleman-Senghor and there was a lot of language reviewed and the strongest language is necessary. If we were to pass it tonight she would want to pass it with Attachment 7. Commissioner Hardy asked if we could do an amendment after it is in place.

Assistant to the City Manager Lustig stated that this ordinance was designed in concert with the County of Sonoma , the City of Santa Rosa and all of our attorneys. Normally we would not deter from allowing more time but we do not want to allow the moratorium to lapse without ordinances in place.

Commissioner Coleman-Senghor asked Chair Rock if he could ask Chris Cone about her feelings on these ordinances, Chair Rock agreed.

PUBLIC HEARING re-opened up at 9:28 p.m.

Chris Cone responded to the Planning Commission that she would like Attachment 7 included and that it is very important to have both ordinances in place before the moratorium expires.

PUBLIC HEARING closed at 9:29 p.m.

Chair Rock felt the ordinances are well written and that staff did a good job. He suggesting voting on the ordinances and requested that Attachment 7 be added. If there are additional issues that need to be addressed they can be addressed at a later time.

Commissioner Hardy agreed that Attachment 7 needs to be included.

Commissioner Pagnusat asked why it has to be listed as an attachment and why it couldn't be apart of the body of the ordinance.

Assistant to the City Manager Lustig said that Attachment 7 will now become part of the ordinance.

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Planning Manager Kavanaugh-Lynch stated that she failed to mention two changes to the staff report. The first was on page 2, #5, of the resolution. She said that it indicates 100 feet and it should be changed to 1000 feet. Planning Manager Kavanaugh read into the record the suggested conditions from the Police Chief. The applicant shall maintain burglar alarms that are installed maintained and monitored by a state licensed alarm company. The applicant is to submit an application for alarm permit issued by the police department, a robbery alarm while not mandated is recommended, this alarm needs to be installed, maintained and monitored by a state licensed alarm company. The City alarm permit process incorporates both burglary and robbery alarms. Install a surveillance cameras system are recommended but not required. The system needs to be of digital quality with a recording device secured from a non-management access to avoid tampering.

OPEN TO PUBLIC COMMENT 9:52

Chris Konecny representing Peet's Coffee gave an overview of their company and the project that is being proposed.

Chair Rock asked if he was opposed to any of the conditions.

Chris Konecny responded that he had no objections to any of the conditions.

Chair Rock asked about the trees that weren't shown. Chris referred to the landscaper which presented a drawing.

Discussion on the types of trees to be planted in the area in question.

Commissioner Kurvers asked Peet's representative if they were willing to put in solar panels.

Chris Konecny said that he was unable to answer yes or no at this time but that he would look into it.

PUBLIC COMMENT 9:57

Janet Kurvers, who lives near the location, said that she is very excited about Peet's coming to Cotati. She is concerned about the patio area and wonders if they would consider digital cameras.

Michell Berhman a Cotati Citizen said that she doesn't think we should require solar on Peet's considering solar wasn't required for Lowes.

CLOSED PUBLIC COMMENT 10:03

Commissioner Pagnusat said that he also has security concerns with regards to the patio area.

Commissioner Coleman-Senghor stated that people will protect the area by being there. If problems arise he is sure that Peet's will take care of it. He feels that Peet's will be an important community anchor. He said that the parking lot will be overflowing and that this will be a plus for Walgreens.

Chair Rock asked if there was a motion.

Motion: A motion was made by Commissioner Pagnusat and Seconded by Commissioner Hardy to Approve PC Resolution No. 08-14 with the 2 changes to #5 and recommending the request for a Use Permit and Design Review approval for site modification and building remodel of a developed site located at 7764 Old Redwood Highway to accommodate a formula-based fast food restaurant known as Peet's Coffee and Tea.

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Yes: 5 Noes: 0 Absent: 0 Abstain: 0

No reports by staff

No reports by Commission

OPEN 957

CLOSE 1003

END 1006